

August 2, 2002

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street N.E.
Washington, D.C. 20426

Reference: Comments on the Final Environmental Impact Statement for Presumpscot River Projects, Maine (including Dundee Project FERC No. 2942-005, Gambo Project FERC No. 2931- 002, Little Falls Project FERC No. 2941- 002, Mallison Falls Project FERC No. 2932- 003, Saccarappa Project FERC No. 2987- 003) EPA ERP Number FRC-B05192-ME

Dear Ms. Salas:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, the Environmental Protection Agency-New England (EPA) has reviewed the Federal Energy Regulatory Commission's (FERC or the Commission) Final Environmental Impact Statement (FEIS) for the relicensing of the Presumpscot River Projects in Maine. The FEIS covers the applications for new licenses for the Dundee, Gambo, Little Falls, Mallison Falls and Saccarappa projects which are owned and operated by the S.D. Warren Company (applicant). EPA submitted comments on the DEIS on December 5, 2001 that highlighted concerns about fish passage, dam removal and bypass flows.

The Presumpscot River flows 25 miles from the outlet of Sebago Lake to the Atlantic Ocean. The five projects that constitute the Presumpscot River projects span about twelve miles from Windham to Westbrook, Maine. There are two projects upstream of the Dundee Project, one of which, the Eel Weir Hydroelectric Project, is the subject of a separate Commission licensing. The Cumberland Mills dam and the Smelt Hill dam, the first dam on the river, exist downstream of the Saccarappa Project. There is tremendous public and agency interest in restoring the aquatic resources of the Presumpscot River.

On July 5, 2002 the Commission accepted the application for the surrender of exemption for licensing for the Smelt Hill Hydroelectric Project. It is expected that the Corps of Engineers will award the bid for the removal of the dam within the next few weeks with dam removal likely to begin in early September. Removal of this dam would restore free passage of migratory fish including alewife, blueback herring, American shad, Atlantic salmon, rainbow smelt, striped bass and American eel in the lowermost portion of the Presumpscot River. In addition, removal of the Smelt Hill dam will restore

riverine conditions up to the non-hydropower Cumberland Mills dam, also owned by the applicant. The U.S. Fish and Wildlife Service (FWS) and others have initiated conversations with the applicant regarding the establishment of fish passage at Cumberland Mills which they believe may result in the timely installation and shared implementation of fish passage at this dam.

Fish Passage

In the FEIS, FERC staff recommends development of a fish passage implementation plan for Dundee, Gambo, Little Falls, Mallison Falls and Sacarappa dams. The Commission would approve the design and construction schedules, which would be developed in consultation with state and federal fishery agencies, consistent with the Department of the Interior (DOI) prescription. This is a considerable improvement over recommendations in the DEIS which did not include Dundee and included an unprecedented requirement (in Maine) for “full utilization of river habitat downstream” as well as the presence of anadromous fish at the base of the dam before design plans would be required. The FEIS recommends that fishway development be based on a phased approach, as prescribed by the DOI. EPA supports this approach.

Dam Removal

The analysis of dam removal in the FEIS is more thorough than that contained in the DEIS. The re-analysis shows, for example, a somewhat greater potential for Atlantic salmon production than previously estimated. EPA believes, however, that the FEIS does not properly analyze the effect dam removal might have on water quality. The FEIS states that removal of the three minor project dams would likely have minimal effects on water quality, and that a more complex analysis, as requested by EPA, would not likely yield different results. This statement is made despite the Maine DEP Second Stage Consultation letter dated September 23, 1998 which concludes that the presence and operation of Warren’s dams and associated generating facilities cause or contribute to the non-attainment of Dissolved Oxygen (DO) standards in the Presumpscot River, especially below the confluence with the Pleasant River.

The FEIS itself acknowledges that low DO levels that occur periodically within the existing three impoundments would be eliminated through dam removal. In addition, although the Water Quality Certificate has not been issued for the project, Maine DEP recommends that provisions be incorporated for spillage at Dundee and Gambo during low flow, high-temperature conditions. We believe such an approach warrants further investigation and that the record should be clarified with respect to the effects of dam removal on water quality in the river.

Bypass Flows

The following table summarizes proposed bypass flows suggested by the applicant, FWS, Maine Department of Environmental Protection and FERC staff in the FEIS for the Dundee, Gambo and

Mallison Falls projects. An additional 50 cfs of spillage at Dundee and 100 cfs at Gambo would be required whenever water temperatures exceed 22 degrees Celsius.

PROJECT	Applicant's proposed bypass flows	FERC staff bypass flows	Maine DEP bypass flows	FWS bypass flows
Dundee	May-Nov. 60 cfs Dec.-April 40 cfs	Jan-Mar. 20 cfs April 30 cfs May-Sep. 57 cfs October 30 cfs Nov-Dec. 20 cfs	May- Nov. 60 cfs Dec- Apr. 40 cfs	57 cfs year- round
Gambo	May-Nov. 33 cfs Dec.-April none	40 cfs year round	80 cfs year- round	40 cfs year- round
Mallison Falls	May-Nov. 60 cfs Dec.-April 40 cfs	Jan- Mar. 40cfs April 40 cfs May- Sep. 60 cfs October 40 cfs Nov.- Dec 40cfs	Dec-Apr 40 cfs May- Nov 60 cfs	63 cfs year- round

Our comments on the DEIS urged FERC to accept FWS flow recommendations for protection and enhancement of aquatic resources in the river. Bypass flows must meet all applicable elements of the state water quality standards including supporting use classifications (which include providing year round habitat for fish and other aquatic life), criteria and antidegradation policies. EPA is pleased that the FERC recommended flows for the Dundee bypass have been raised to the level recommended by FWS. While the recommendations for the other two bypasses have increased they still fall short of those recommended by the FWS , especially during the winter. In response to this, FERC recommends that future instream flow studies be undertaken should anadromous species be established in the reaches, or should an important winter fishery develop. FERC also raises the potential that flows could be adjusted, should these future events occur. While EPA appreciates FERC efforts to study and potentially reopen its flow recommendations, we believe that a basis exists now to recommend the higher year round flows in the Dundee (57 cfs year round) and Mallison Falls (63 cfs) bypass reaches.

Presumpscot River Comprehensive Plan

EPA continues to work with the Casco Bay Estuary Project (CBEP) and others to develop a comprehensive watershed management plan for the Presumpscot River. Draft options for improving fishery resources, protecting open space and addressing cumulative impacts are being presented by this stakeholder group at public meetings in summer and fall 2002. The FEIS briefly acknowledges this planning process. The FEIS, however, refers to a "conceptual management plan for Casco Bay, prepared in 1992." That is an outdated draft plan. The final Management Plan for Casco Bay approved by the state and EPA in 1996. Also, the FEIS states that it would be desirable for the applicant to consult with the CBEP during the development and implementation of its final recreational plan. We agree. Moreover, FERC and the applicant should acknowledge other important portions of the plan, including those related to fisheries, and the need to consult on these as well.

We appreciate the opportunity to comment on the Presumpscot River FEIS and encourage you to contact Ralph Abele of EPA's Office of Ecosystem Protection at (617) 918-1629 if you would like to discuss these comments.

Sincerely,

/s/

Elizabeth A. Higgins
Director, Office of Environmental Review

Enclosure

cc: FERC Service List